

January 20, 2021

Mayor Karl Dean & Mr. Dwight Lewis
Policing Policy Commission Co-Chairs
c/o Metropolitan Mayor's Office
One Public Square
Nashville, TN 37201

Dear Mayor Dean & Mr. Lewis:

I again want to send my deep appreciation to you both for serving as co-chairs of Mayor John Cooper's Policing Policy Commission. Likewise, I am grateful to all the commission members who volunteered their time to help develop a final report that can help serve as a guide for the MNPd as we move on a path to reduce the use of force, build trust across all of Nashville's neighborhoods and enhance public safety.

On behalf of the MNPd, I accept this report and the challenge of the opportunity to implement its recommendations, or to provide greater clarity on how the MNPd is already addressing certain issues contained in the report. Furthermore, I embrace the four overall desired results:

- 1. The MNPd collaborates with residents, neighborhood associations, non-profits, faith-based institutions, business and community groups, and with other government departments and agencies;*
- 2. The MNPd better reflects the diversity of the city it serves at every level of the organization;*
- 3. The MNPd, to the greatest extent possible, works to eliminate disparities in the application of all types of use of force and issues regular reports around the use of force, while also providing information to the COB to conduct its core oversight responsibility.*
- 4. MNPd officer training, skills and behaviors, as well as department culture, reflect a commitment to consistent and respectful interactions with all Nashvillians, including African-Americans and other residents of color, Muslim Americans and immigrant-origin communities, and LGBTQ+ residents, as part of a concerted effort to eliminate disparities in the use of force.*

Lastly, under my leadership, the MNPd will establish a common set of core values to which all of our employees should subscribe, including collaboration with Nashville's diverse communities, an appreciation for diversity itself, respect for human dignity, and transparency.

I am committed to keep you and Nashville's residents updated on the steps we are taking/have taken. I have asked for IT professionals to create, within the MNPd public website, a page dedicated to our progress in addressing recommendations in the report. In the meantime, our work is well underway. Attached to this letter is the MNPd response to the Commission report items identified as requesting "immediate" action/response.

Again, I thank you and the entire Commission for your commitment to making Nashville a better place, and helping the MNPd better serve all of our communities.

Sincerely,

John C. Drake
Chief of Police

Policing Policy Commission Report
Action Items with Proposed Timeline of “Immediately”



MNPD Response

January 20, 2021

“What this Commission wants most of all – and believes Nashville needs – is a Nashville model of policing.”

Item: Continue to partner with the Mobile Crisis Unit and refer to the Crisis Treatment Center operated by the Mental Health Cooperative. (p. 25)

MNPD Response: The MNPD agrees with the Commission in the problem statement that “Traditional policing has required police to serve as first responders to mental health and addiction crises even though police are not clinically trained to address these crises and refer individuals to appropriate services.”

This action item is consistent with established policy and training. The MNPD Manual (posted online at:

<https://www.nashville.gov/Portals/0/SiteContent/Police/docs/Strategic%20Development/MNPDManual.pdf>), at 18.110 beginning on page 1155, provides the framework for officers who may interview, interact or have cause to transport those persons who may suffer from mental illness or require custody as a result of the statutory requirements as to indicate that he/she is a "mentally ill individual" who poses a "substantial likelihood of serious harm" to himself/herself or others.

Specifically, these provisions of the MNPD Manual and the relative MNPD training programs on this topic were developed in conjunction with the Mental Health Cooperative and related agencies.

Chief Drake has directed that the Strategic Development Division and the Training Academy evaluate national best practices and review potential grant availability to establish a Nashville Crisis Intervention Team (CIT) where officers and mental health professionals co-respond to those in crisis. Absent grant funding, the developed plan would be submitted as a budget improvement for the next appropriate Metro Government budget cycle.

Item: Set bold, ambitious goals for recruiting diverse applicants; remove barriers to recruitment of underrepresented populations; and publicly report on openings and results; Diversify the Recruiting Unit so that it mirrors the diversity sought in the overall workforce. Increase the Recruiting/Hiring Unit with additional sworn personnel from underrepresented groups. At least twice each year, recruit an applicant pool that mirrors the Davidson County/Nashville population. (p. 27)

MNPD Response:

It is always the goal of the police department to hire and maintain a diverse work force. The Recruitment Unit is tasked with searching out the best qualified applicants that represent the citizens of our city.

The department has implemented unique approaches that will support Police Officer Trainees as they enter the pre-hire status and continue throughout their Training Academy experience and entire career. As the new four recruiters speak with interested applicants they will describe the new programs and in turn illustrate the department’s commitment to supporting officers as they enter their law enforcement careers with the MNPD.

Towards that goal, the MNPD has:

- Created a Recruitment Facebook page that will provide Civil Service testing dates, locations, and instruction on how to prepare. Also included will be information about the results of testing and the demographic breakdown of those testing. The same information provided on Facebook will be available in the Recruitment section of the MNPD’s website.
- Continues to seek out opportunities to participate in recruitment events, job fairs, and related activities.

- In November 2020, under the direction of Chief Drake, the Recruitment Unit expanded, creating four positions of full-time sworn officers. The demographics of the officers are female Hispanic, female White, male Black and male White. The four newly appointed officers will be responsible for developing strategies to recruit a diverse pool of officers.
- ONAD Advertisement – In July 2020, the department entered into a year-long contract with this ad agency, which incorporates several social media platforms to promote the opportunity for police officer positions with the MNP. Starting January 2021, the agency will specifically focus on certain zip codes in Davidson County that represent minority neighborhoods.
- Pre-hire employment – applicants that are hired for the upcoming academy session are provided the opportunity to work for the police department in a non-sworn status. During this pre-hire tenure, they are provided with study materials related to policies, academy expectations, law, and other information that will assist them in better preparing for the training academy experience. They will also have the opportunity to work with a physical fitness coordinator in order to help them prepare for the physical fitness portion of the academy.
- Mentor Program – once the applicant is provided a conditional offer for employment they will be assigned a mentor. Mentors will consist of sworn officers from the rank of officer to captain. The mentor will follow the trainee throughout the process until the end of their field training assignment. The mentor will be a support person for the trainee as she/he works their way through the first year of their career. This program should improve retention of officers by providing a support system that can be used throughout their MNP careers.

The department will coordinate with community stakeholders for the establishment of an advisory panel aimed at the refinement of best practices for recruitment and retention. The panel will be expected to identify areas in which the department can improve while helping establish initiatives for future hiring, specifically relating to women and minorities.

Item: Eliminate possible barriers and disqualifiers to hiring candidates from underrepresented demographics. (p. 28)

In today's environment of community oriented policing, the department is committed to recruiting, testing, selecting, and training quality applicants to become Nashville Police officers. Those persons should possess the qualities of problem solving, critical thinking, effective communication, empathy and integrity. No longer is there a strong focus on an applicant's ability to be tactically wise or athletically inclined. We believe this model will be more appealing to today's applicant and should make the prospect of Nashville police service more appealing to minority and women. The Administrative Services Bureau, which oversees all entry points for the position of police officer, continues the process of evaluating the manner in which we recruit and test with the goal of eliminating any adverse impact on protected classes. It is our goal to ensure that these efforts do not create an adverse impact on protected classes. This will be done consistent with Tennessee POST Rules.

- Civil Service Written Test (cognitive ability exam) – This written test was developed by Industrial/ Organizational Solutions, which works with many of the larger cities in the country. The company abides by the "4/5ths or 80% rule" as a formula to detect bias and adverse impact to women and minorities. This has been a proven tool to defend or determine bias if challenged in courts. The department will confirm local validity of the test through a

questionnaire that will help predict whether the test is conducive to the type of officers that are desired by the Nashville community.

- Physical Agility Test (PAT) – the police department is re-evaluating/redesigning the Physical Agility Test so that it conforms with real world expectations of a police officer, not, for example, performing a very long run within a specified time allotment.
- Pre-Employment Physiological Evaluation – Hughes, McDaniel & Associates is the company that provides this assessment for the police department. This firm also uses the “4/5ths rule” when assessing for adverse impact and bias. This firm has recently been informed of the five key attributes the MNPd is looking for in prospective police officers: problem solving, critical thinking, effective communication, empathy, and integrity. Hughes, McDaniel & Associates have agreed to consider these attributes during the assessment process as part of the overall evaluation of applicants
- Fair and Impartial Policing Training – MNPd background investigators have attended an 8 hours course on Implicit Bias to reinforce how perceptions and behavior can be impacted to the negative.

Item: Prioritize the promotion of qualified minority and women candidates to improve representation within the police department and publicly report results. (p. 29)

MNPd Response: To the maximum extent possible, consistent with Civil Service Rules and specifically, Civil Service Policy 7.2B-I (located at: <https://www.nashville.gov/Portals/0/SiteContent/HumanResources/docs/CivilService/CivilServicePolicies.pdf>) Chief Drake is determined, through conscientious efforts of MNPd personnel and input from the MNPd Recruitment and Retention Advisory Panel, that this goal can be achieved.

Item: Publicly release the demographics and qualifications of staff being promoted to leadership positions and permanently post publicly any requirements, guidelines, and decision-making process for promotions. (p. 29.)

MNPd Response: Chief Drake is committed to ensuring that, to the maximum extent possible, this information will be posted and remain available. The MNPd will formally request that job descriptions for all MNPd members be made available on Metro’s Human Resources website.

Item: Incorporate policies that fulfill the remaining four recommendations of the #8cantwait initiative. The following procedures should be updated: Requires De-escalation, Duty to Intervene, Ban Shooting at Moving Vehicles, and Requires Comprehensive Reporting. (p. 31)

MNPd Response: On December 11, 2020, the MNPd published a comparison of MNPd policy to the #8CantWait principles that fully explains MNPd policy, procedure and training to each of the principles. That document is online at: <https://www.nashville.gov/Police-Department/Department-Manual.aspx>

Item: Officially and explicitly ban “No-Knock” warrants in all of MNPd materials, including its manual. (p. 31)

MNPD Response: Although this practice has been non-existent for decades, Chief Drake agreed with the Commission recommendation, and on December 8, 2020, the MNPD authorized the dissemination of a Roll Call Training document to all employees that revised policy on the topic of search warrants pending additional formal manual revision. In addition to enhanced guidance on application for search warrants and an enhanced level of supervisory review for search warrant applications, an element of this document implemented the explicit ban on so-called “no-knock” warrants. That document provides, in part:

“No officer shall seek application for a search warrant wherein a “no-knock” service or execution is requested.”

The entire document will be posted publicly at: <https://www.nashville.gov/Police-Department/Department-Manual.aspx>

Item: Together with the Metropolitan Nashville Community Oversight (MNCO), conduct a thorough review of MNPD’s “Knock-and-Announce” policies, using all relevant materials, and make suggestions for improvements that draw on national best practices of review. (p. 31)

MNPD Response: Consistent with Metro Charter 11.1301, et. seq., the Community Oversight Board has the authority to make “...*recommendations to agencies involved in public safety and the administration of justice...*” and the MNPD remains fully committed to maintaining a cooperative relationship with the Community Oversight Board including full consideration of any recommendations regarding policy or training. To facilitate this ongoing renewed collaboration, Captain Carlos Lara, the MNPD’s Chief Diversity Officer & leader of the Office of Community Engagement & Partnerships, has been assigned as a department liaison to the COB and their staff.

Item: Require that body-worn cameras be mandated for all officers participating in “knock-and-announce” warrants. (p. 31)

MNPD Response: MNPD policy on body worn cameras (BWC) or in-car camera (ICC) specifically includes the requirement for those employees who have been issued a BWC/ICC, “*employees shall activate their BWC/ICC devices prior to initiating any investigative or law enforcement activity involving a member of the public*” and specifically includes the requirement to document “*Searches and inventories of vehicles, persons, or premises*”. This policy is online and publicly available at: <https://www.nashville.gov/portals/0/SiteContent/police/docs/rct/RCT-BWCICCPilotPolicy.pdf>

Item: Require that serving “knock-and-announce” warrants will automatically be grounds for a review by MNCO. (p. 31)

MNPD Response: Consistent with established agreements between the MNPD and the MNCO, formalized in the two (2) memorandum of understanding agreements, the MNCO remains authorized to provide oversight of such MNPD activities, investigate complaints, and to make recommendations. Similarly, by authority of the Metro Charter, any person may request the MNCO investigate any complaint of misconduct by an MNPD officer involved in a search warrant process. Following the

dissemination of the revised MNPB policy on search warrants on December 8, 2020, a copy of that policy was forwarded to Metro Nashville Community Oversight Executive Director Jill Fitchard.

Item: Require consistent use of body-worn cameras by officers (p. 31)

MNPB Response: The basic underlying premise of the MNPB body worn and in-car camera program is that:

Employees will activate the BWC/ICCs, consistent with this policy to record any investigative or law enforcement activity involving a member of the public.

Further, the policy defines what those activities may include:

Investigative and law enforcement activities include, but are not limited to:

1. Dispatched Calls For Service

a. BWC/ICC shall be activated upon dispatch to emergency (response code 3) calls for service, starting when dispatched and ending with completion of police interactions or return to service;

Note: Nothing herein should prohibit an employee from activating the BWC/ICC upon dispatch or at any point during the response to a non-emergency call (response code 1 or 2) when the employee has a reasonable belief that relevant or evidentiary video may be obtained by such activation.

b. BWC/ICC shall be activated just prior to arrival on code 1 and code 2 calls for service.

2. Investigative stops or other investigatory encounter involving a member of the public;

3. Traffic stops;

4. Observed criminal activity;

5. Arrests and seizures, or attempts to arrest or detain;

6. Searches and inventories of vehicles, persons, or premises;

7. Vehicle and foot pursuits;

8. Transport of persons in custody or otherwise not free to leave (i.e., under arrest, mental health transport, etc.);

9. Canine searches;

10. Critical incidents, as defined herein;

11. Crowd management and control with a reasonable likelihood of enforcement or investigative contacts;

12. Questioning victims, suspects, or witnesses (This does not include conversations with persons merely wishing to pass on information about general criminal activity not tied to a specific event.); or

13. At any time an employee believes the event or encounter should be recorded for investigative or administrative purposes.

14. Other investigative or law enforcement activities where, in the employee's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.

NOTE: In some circumstances, it may not be possible to capture images of an incident or of an entire incident due to environmental conditions, the location of the employee, the location of the camera, or other factors; however, the audio portion can be valuable evidence and is subject to the same activation requirements.

The entire policy may be found at:

<https://www.nashville.gov/portals/0/SiteContent/police/docs/rct/RCT-BWCICCPilotPolicy.pdf>

Item: Require that the MNPD captain who oversees body worn cameras report directly to the Police Chief concerning content from videos that document use of force and compliance by officers and that said Captain works collaboratively with the MNCO and other community organizations. (p. 31)

MNPD Response: MNPD policy on body worn and in-car cameras provides for review, internal audit and reporting processes consistent with this recommendation. See:

<https://www.nashville.gov/portals/0/SiteContent/police/docs/rct/RCT-BWCICCPilotPolicy.pdf> .

Item: Create policy regarding regular review of the videos. (p. 31)

MNPD Response: MNPD policy on body worn and in-car cameras specifically includes a review process, including reviews for internal audits, force review performance appraisals (as part of the departmental early intervention system), quality control, training, and external reviews, to include the Office of the District Attorney, Metro Nashville Community Oversight and the general public. This policy is online and publicly available at:

<https://www.nashville.gov/portals/0/SiteContent/police/docs/rct/RCT-BWCICCPilotPolicy.pdf> and more information on access is at: <https://www.nashville.gov/Police-Department/Administrative-Services/Body-Worn-Cameras.aspx>

Item: Stop teaching “excited delirium” at the Police Training Academy. (p. 31)

MNPD Response: The MNPD does not teach officers to diagnose or treat “excited delirium.” The department, consistent with best practices developed in conjunction with Dr. Corey Slovis*, Professor of Emergency Medicine at Vanderbilt University Medical Center and the Medical Director for the Nashville Fire Department, teaches officers to recognize the signs and symptoms of this particular condition and, in doing so, implement a set of co-developed protocols that require and provide for enhanced Emergency Medical Service response and coordination. As the Commission notes, this protocol is about addressing the underlying medical condition as a priority over any arrest procedure. Consistent with Nashville Fire Department medical protocols and MNPD policy, Excited Delirium is defined in the Use of Force policy for the sole purpose of ensuring officers do in fact recognize the signs and symptoms in order to obtain immediate medical attention as soon as practical.

As to Excited Delirium, the MNPD Manual provides:

After any use of force on an individual who has exhibited signs or symptoms of excited delirium, extreme drug/alcohol intoxication, extreme hyperactivity, or similar uncontrolled behaviors, employees shall provide immediate aid by summoning emergency medical personnel and/or by transporting the person to the hospital.

MNPD policy requires officers to follow the co-response protocols involving summoning immediate EMS response and/or transport to the hospital. These provisions are in the MNPD Manual, in various sections within Title 11, at: <https://www.nashville.gov/Police-Department/Department-Manual.aspx>

This response model was recently touted as a best practice in an article authored by the National Association of EMS Physicians (<https://naemsp.org/NAEMSP/media/NAEMSP-Documents/Clinical-Care-and-Restraint-of-Agitated-or-Combative-Patients.pdf>)

* <https://www.vanderbiltem.com/team/corey-slovis%2C-md>

Item: Partner with EMS and Mobile Crisis to develop protocols ensuring the safety of the individuals, the officers, the community, and the EMS providers. (p. 31)

MNPD Response: The Manual provides, regarding excited delirium (emphasis added):

After any use of force on an individual who has exhibited signs or symptoms of excited delirium, extreme drug/alcohol intoxication, extreme hyperactivity, or similar uncontrolled behaviors, employees shall provide immediate aid by summoning emergency medical personnel and/or by transporting the person to the hospital.

A similar set of protocols exist for requests for response by the Mental Health Cooperative's (MHC) Mobile Crisis Response Team (MCRT) concerning calls for service involving persons in a mental health crisis. That provision begins with:

Officers receiving a call for assistance on, or in any way becoming aware of, a situation involving a "mentally ill individual" will make such investigation as necessary to determine if that person poses a "substantial likelihood of serious harm" to himself/herself or others. Officers are not required to make a mental or medical diagnosis of the individual. Officers are merely required to make a practical commonsense decision, whether, given all the facts and/or circumstances reasonably available to the officer, there is a reasonable basis for believing that the individual in question is a "mentally ill individual" and meets the criteria listed below.

The Manual then provides substantive guidance, developed in cooperation with the MHC, to aid officers in evaluating whether transport to the MHC or a response from the MCRT is required.

Item: If, at the scene of an incident, officers suspect a medical emergency, call for EMTs and trained mental health providers to assess each suspect and recommend appropriate course of action. (p. 31)

MNPD Response: The statement exemplifies what is contained in MNPD policy (Manual title 11 and 18) for handling of these calls for service. In addition to the provisions cited in the previous item,

The general requirement of MNPD officers to render aid or summon appropriate medical assistance is throughout MNPD policy and training. Examples include, but are not limited to the following:

Whenever an employee is involved in a use of force incident in which a person sustains injuries or requests evaluation and/or treatment, the appropriate first-aid shall be administered either by the employee or others at the scene, by transporting the injured person to the hospital, and/or by summoning emergency medical personnel. (Manual 11.10.140)